



## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 275

[FNS-2018-0043]

RIN 0584-AE64

### Supplemental Nutrition Assistance Program: Non-Discretionary Quality Control

### Provisions of the Agricultural Improvement Act of 2018

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Interim final rule.

**SUMMARY:** The U. S. Department of Agriculture (the Department) is issuing this interim final rule to strengthen and improve the integrity and accuracy of the Food and Nutrition Service (FNS) Supplemental Nutrition Assistance Program (SNAP) Quality Control (QC) system by codifying statutory requirements enacted by the Agriculture Improvement Act of 2018 (2018 Farm Bill) that was signed into law on December 20, 2018.

**DATES:** *Effective date:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*Compliance date:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for the Paperwork Reduction Act (PRA) provisions, which are delayed pending approval by the Office of Management and Budget (OMB). The Food and Nutrition Service will publish a document in the Federal Register announcing the compliance date.

*Comment dates:* Written comments on this interim final rule must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be assured of consideration.

We will consider comments on the Paperwork Reduction Act that we receive by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this interim final rule. Comments may be submitted in writing by one of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Send comments to Stephanie Proska, Branch Chief, Quality Control Branch, Program Accountability and Administration Division; Food and Nutrition Service; 1320 Braddock Place, 5<sup>th</sup> Floor; Alexandria, Virginia 22314.
- E-Mail: Send comments to [SNAPQCReform@usda.gov](mailto:SNAPQCReform@usda.gov). Include Docket ID Number FNS-2018-0043, "SNAP: Non-Discretionary QC provisions of Title IV of PL 115-334" in the subject line of the message.
- All written comments submitted in response to this interim final rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the written comments publicly available on the Internet via <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Proska, Food and Nutrition Service, 1320 Braddock Place, 5<sup>th</sup> Floor; Alexandria, Virginia 22314, [SNAPQCReform@usda.gov](mailto:SNAPQCReform@usda.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Pursuant to Section 16 of the Food and Nutrition Act of 2008, as amended (FNA), each State agency is responsible for monitoring and improving its administration of

SNAP and providing information from the SNAP quality control (QC) system. For QC reviews, States conduct monthly reviews of a statistically representative sample of households participating in SNAP (active cases) and households for whom participation was denied, terminated, or suspended (negative cases). These reviews measure the accuracy of SNAP eligibility and benefit determinations and ultimately serve as the basis for the SNAP payment error rate (PER), as defined in Section 16(c)(2)(A) of the FNA, and case and procedural error rate (CAPER)<sup>1</sup>, respectively. The results of these reviews provide States with feedback on the State's administration of the program, including how their chosen policy options, waivers, and business processes affect the accuracy of their eligibility determinations.

SNAP QC has four goals, identified at 7 CFR 275.10(b), which are to provide: (1) a systematic method of measuring the accuracy of the SNAP eligibility caseload; (2) a basis for determining all SNAP error rates; (3) a timely, continuous flow of information on which to base corrective action at all levels of administration; and (4) a basis for establishing State agency liability for errors that exceed the National performance measure pursuant to Section 16(c)(1)(C) of the FNA.

Every Federal fiscal year (October through September), State agencies conduct QC reviews for two different sampling frames – the active sampling frame and the negative sampling frame. For the active frame, States review a sample of their overall participating SNAP households (those receiving SNAP benefits). This QC review consists of a detailed examination of household non-financial and financial circumstances including income, resources, and deductions to determine whether benefits were accurately authorized by State eligibility offices for cases in the active frame. For the negative frame, reviewers review a statistical sample of cases that were denied,

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<sup>1</sup> In fiscal year 2012, the procedures for reviewing cases in the negative frame, discussed later, changed to include the State's procedural processes in determining a negative case's validity. FNS has referred to the negative error rate since then as the case and procedural error rate, or CAPER, to reflect this change.

suspended, or terminated to determine not only their accuracy, but also if the State agency followed the correct procedures according to SNAP regulations.

After State agencies submit their completed QC reviews to the Federal government, Federal staff select and review a sub-sample of cases from the active and negative frames to verify the accuracy of the States' QC review findings. A regression analysis is then performed utilizing both the Federal and State data to calculate national and State error rates. FNS also uses the data gathered through the QC review process for program analysis.

Beginning in calendar year 2015, FNS conducted integrity reviews of all 53 SNAP State agencies nationwide and USDA's Office of Inspector General (OIG) conducted an audit on the SNAP QC review process<sup>2</sup>. The integrity reviews and the OIG audit found there were integrity issues with the data submitted by State agencies. In short, the majority of States (42 of 53) were underreporting QC errors in the active frame. In response to these findings, FNS undertook significant measures, explained in more detail later in this preamble, to improve training and strengthen controls over the QC process. In some cases, the Department of Justice (DOJ) entered into settlement agreements with States for the underreporting of SNAP QC errors in violation of Federal law.

On December 20, 2018, the President signed into law the Agriculture Improvement Act of 2018 (2018 Farm Bill). Section 4013 of the 2018 Farm Bill included requirements to reform the SNAP QC system in order to further improve the integrity of the system and accuracy of the data it produces. These requirements build upon the Departmental and DOJ actions taken to address integrity concerns raised by FNS and OIG reviews.

The 2018 Farm Bill included changes in three sections of the legislation that required SNAP to update its regulations accordingly. Section 4013(a) of the 2018 Farm Bill requires "All [State SNAP] records, and the entire information systems in which records

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<sup>2</sup> <https://www.usda.gov/oig/webdocs/27601-0002-41.pdf>

are contained...” be made available for inspection and audit by the Secretary. Section 4013(b) of the 2018 Farm Bill required the Department issue an interim final rule that: 1) ensures the QC system produces valid statistical results; 2) provides for the oversight of contracts entered into by a State to improve payment accuracy; 3) ensures the accuracy of data collected in the QC system; and 4) provides for the evaluation of the integrity of the QC process for a minimum of 2 State agencies per fiscal year, to the maximum extent practicable. The regulations within this rule reflect those requirements.

### **Good Cause Analysis**

Pursuant to the Administrative Procedure Act (APA), notice and comment are not required prior to the issuance of a rule if an agency, for good cause, finds that “notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” (5 U.S.C. 553(b)(B)). USDA recognizes that courts have held that the good cause exception to notice and comment rulemaking is to be narrowly construed and only reluctantly countenanced.

As a result of the statutory requirement for the Department to promulgate an interim final rule addressing these issues, the Department finds for good cause that notice and public comment is unnecessary and contrary to the public interest for this rule. This interim final rule and the regulatory amendments described below address provisions of Sections 4013(a), as well as Section 4013(b) of the 2018 Farm Bill that USDA was directed by Congress to promulgate via interim final rule.

### **Subpart A—Administration**

#### *Use of third-party contractors*

Upholding the integrity of the QC system is critical to the Department’s responsibility for improper payment reporting and proper stewardship of taxpayer funds. Evaluation of the SNAP caseload and the benefits issued must be reliable in order to accurately measure SNAP payment errors. In their respective reviews, FNS, OIG, and DOJ found

that a majority of States used third-party contractors at various times over the preceding 10 years to provide regulatory and policy advice on how to conduct SNAP QC reviews in their State. It was also found that States following the advice of contractors often underreported errors in active QC case reviews. Advice that contributed to the underreporting of errors included training State QC reviewers to document cases inappropriately, organizing committees that focused on developing methods to mitigate errors and underreport existing payment errors to FNS, and withholding information or disposing of cases contrary to SNAP regulations and established policy.

On January 20, 2016, FNS issued a policy memorandum<sup>3</sup> on the use of third-party contractors for QC purposes to address these issues. FNS issued this memorandum based the understanding that it is within the agency's regulatory authority to clarify policy. While the memorandum provided timely and clear guidance to States in response to a critical integrity issue, this interim final rule will ensure that the expectations are explicit. The memorandum clarified the appropriate use of contractors in the QC process and established procedures regarding the use of contractors to help ensure that activities performed under the contract are in accordance with Federal regulations and policies. The memorandum required a State to notify FNS of its intent to enter into a contract for the purposes of training State QC reviewers on SNAP regulations, policies, or manuals to improve payment accuracy, and to provide a copy of its contract and all deliverables to FNS. The memorandum emphasized that any activities or deliverables not complying with Federal regulations and policy would not be eligible for Federal reimbursement, as provided by Section 16(a) of the FNA, which authorizes the Secretary of Agriculture to pay each State agency 50 percent of all administrative costs involved in each State agency's operation of SNAP. The memorandum also stipulated that FNS be allowed attend any training sessions or meetings that discussed individual QC cases and required

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<sup>3</sup> <https://www.fns.usda.gov/snap/integrity-snap-quality-control-system>

that the State document any discussions about individually sampled cases within the QC record for subsequent review and auditing purposes.

Subsequent to the issuance of this guidance, the 2018 Farm Bill directed the Department to issue interim final regulations to provide for the oversight of contracts entered into by a State agency for the purpose of improving payment accuracy. As a result, the Department is codifying at § 275.2(c) the requirements on the oversight of contracts previously set forth by FNS in the 2016 policy memorandum. This paragraph at § 275.2(c) will also codify the 2018 Farm Bill requirement at Section 4013(b) that any person who knowingly submits, or causes submittal of, false information in carrying out the QC system be debarred in accordance with procedures outlined in 2 CFR part 417. This particular provision regarding debarment, codified through this interim final rule, was self-executing upon enactment of the 2018 Farm Bill.

These provisions associated with third party contractors under 7 CFR 275.2(c)(1) will be effective upon OMB's approval of the information collection associated with this activity.

#### *State Systems Access*

Section 4013(a) of the 2018 Farm Bill required that all State agency records and the systems in which those records are contained be made available to the Department for QC purposes. To ensure the accuracy of data collected in SNAP QC and to allow for independent oversight of program administration, FNS must have access to State agency records and the systems in which those records are contained; this includes remote access. While mandatory FNS access to State computer systems for QC purposes has existed since the current QC system was implemented, it is necessary to specifically include remote access in this requirement to ensure Federal staff has the tools necessary to conduct thorough QC re-reviews from their duty stations. While some State agencies

have already provided remote access to their systems, it has been difficult to gain access in some states due to technological and security challenges. These challenges include issues concerning equipment and firewalls as well as the fact that some State systems do not include a user role that allows access only to SNAP information.<sup>4</sup> A new paragraph at §275.2(d) will require FNS have access, including remote access, to all State agency records and systems in which those records are contained. The Department believes this provision will enable State agencies to make the necessary changes to allow remote access to State computer systems for SNAP QC purposes, and therefore help ensure the accuracy of the collected data through the QC system. FNS will continue to work with States collaboratively to establish data sharing and system integrity agreements to facilitate the required systems access. This provision is effective upon publication of this rule.

#### *Federal Monitoring- Reviews of State Agency's Quality Control System*

The 2018 Farm Bill further requires FNS to ensure that the integrity of the QC system is reviewed in at least two State agencies per fiscal year to the maximum extent practicable. As a result, the Department is adding a new paragraph at § 275.3(c) to use the existing management evaluation process to provide for the review of at least two State agency QC systems per year. The paragraphs currently located at § 275.3(c) and (d) are being appropriately re-designated as § 275.3(d) and (e), respectively. This provision is effective upon publication of this rule.

#### *Social Security Administration (SSA) Processed Cases*

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<sup>4</sup> State systems contain information on participants in a multitude of different programs, each of which can have (as some currently do) statutory and regulatory language prohibiting the disclosure of such information outside of said program. As such, the State systems must be able to limit user access to SNAP information only before sharing the system with FNS for SNAP QC purposes to ensure compliance with federal law.



This rule will also ensure statistically valid results and improve the accuracy of QC data collected by State agencies by requiring that cases processed by the Social Security Administration (SSA) are included in the error rate. Currently, SSA processes applications for around 50,000 SNAP cases a year. Less than one-tenth of a percent of cases sampled for QC review are processed by SSA. Current regulations require SNAP cases that are processed by SSA to be reviewed according to standard procedures; longstanding FNS policy exempts these cases from inclusion in the error rates. SNAP regulations at 273.2(k)(l) provide two options for SSA involvement in the certification process for SNAP beneficiaries, which are designed to simplify the SNAP application process for households applying for and receiving Supplemental Security Income. The first option is for the SSA office itself to complete and forward applications to the local SNAP office, and the second is for the local SNAP agency to outstation a worker at the SSA office. Both processes require the SNAP agency to make the final determination on the application, meaning that even when SSA participates in completing the application, the State agency must clarify unclear information and ensure the benefit determination and allotment amount are correct. Since the SNAP agency is responsible for finalizing and processing applications received at SSA offices, including these cases in the error rate would ensure this population of households is part of the improper payment measurement. This would improve the accuracy of QC data collection and reporting methods. FNS believes that excluding these cases from the error rate is inconsistent with current Federal improper payment requirements and intends to correct this inconsistency by requiring SSA processed cases be included in the SNAP error rate. For these reasons, the Department is amending the following sections in 7 CFR to clarify that SSA processed cases shall be treated in the same manner as other SNAP cases for QC purposes: newly redesignated 275.11(g); and 275.12(h), 275.13(f), 275.21(d), and 275.23(b)(1). This provision is effective upon publication of this rule.

## *Record Retention*

To further ensure the accuracy of QC data collected by State agencies, this interim final rule will also provide more detail on what records must be retained for QC case files. Past QC integrity management evaluation reviews conducted by FNS found that many State agencies misunderstood SNAP QC record retention requirements, including the essential document types that must be reported and retained. In addition to these FNS reviews, the OIG audit of the QC error rate process and the FNS completion rate study<sup>5</sup> each discovered intentional and unintentional instances of State agencies leaving documentary evidence out of the case file. As a result, Federal QC reviewers had insufficient information to review such cases and determine whether the information used in the State case determinations was accurate. When State agencies do not properly retain such documentary records, FNS cannot adequately confirm data accuracy and integrity.

The Department has concluded that the existing regulations lack sufficient specificity for States to determine which QC-related records must be maintained for the required duration of three years post fiscal closure, which is when the error rate is issued for most States; for States in liability status, three years post fiscal closure begins on the date the State fulfills all requirements to close its liability. In an effort to strengthen the understanding of which records States must maintain and to increase the integrity of the QC system and quality of data, the Department is amending the regulatory language at §275.4(c) to provide more comprehensive detail, including specifying that all correspondence with the household and all case notes, digital or otherwise, be included in

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<sup>5</sup> On January 11, 2016, FNS published a study, Enhancing SNAP Quality Control Completion Rates, that examined the factors contributing to incomplete reviews of cases and described best practices associated with high SNAP QC completion rates.

the QC case file, among other requirements. This will help ensure the accuracy of QC data collected by State agencies. This provision is effective upon publication of this rule.

## **Subpart F—Responsibilities for Reporting on Program Performance**

### *Quality Control Review Reports- Individual Cases*

In the course of conducting a QC review, FNS requires State agencies to accurately record, document, summarize, and code household circumstances, which includes completing the review forms associated with active and negative QC reviews, to ensure the accuracy of the data collected. Current regulations at §275.21(b) require States to submit “edited” findings for both Form FNS-380-1 and Form FNS-245. When these QC rules were originally written, the “edits” were related to the capability of computer systems to communicate with one another. Until computers were able to communicate more directly, without a dial up connection, it was common practice for States to review the files uploaded to FNS to ensure the data they submitted was consistent with data received on the other end. When the received data did not match what was sent, the State had to “edit” those mismatched fields to ensure the data was accurate.

As computer technology has dramatically improved since this provision was written and communication errors are now the exception rather than the norm, it is necessary to remove this reference to “edited” data to ensure FNS is clear that States are expected to submit thorough and final versions of the required QC forms to FNS.

FNS, OIG and DOJ found that, in some cases, States interpreted §275.21(b) to allow significant editing of the facts of cases under review before submission to FNS and used that interpretation to misrepresent cases that contained payment errors and to artificially lower the reported State error rate. Since “editing” findings is an integrity concern and the original intent is no longer of concern due to advancements in technology, the Department is amending the language in §275.21(b) by removing the term, “edited” from regulatory text to better ensure the accuracy of the data collected. FNS will continue to

provide a process for States to correct typos and data entry errors in their submissions.

This provision is effective upon publication of this rule.

In addition, the regulation at §275.21(b) does not currently require States to include Form FNS-380, Worksheet for QC reviews, upon submission of QC cases to FNS. Currently, States are required to use the Form FNS-380 to record their notes and observations over the course of completing their review, but are only required to submit the form in the event that a case is selected for Federal sub-sample. Requiring the Form FNS-380 be submitted for all cases, regardless of whether the case was included in the Federal sub-sample, will provide greater information about SNAP households to FNS for program analysis purposes and improve the consistency of documentation across cases by ensuring States submit all pertinent information before knowing a case has been selected for Federal review. The Department believes requiring that the form be thoroughly documented and submitted will enable case reviewers to fully understand the circumstances of the case, final finding, and disposition, and the quality of the State QC reviewers' submitted reviews will be improved. These changes will help to ensure more statistically valid results and will help to ensure the accuracy of QC data collected. As a result, §275.21(b) is modified accordingly. This provision is effective upon publication of this rule.

## **Procedural Matters**

### **Executive Order 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of

harmonizing rules, and of promoting flexibility. The Department has developed this rule in accordance with these orders.

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this interim final rule is significant and was accordingly reviewed by the Office of Management and Budget (OMB).

#### Regulatory Impact Analysis

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any one year). USDA does not anticipate this interim final rule is likely to have an economic impact of \$100 million or more in any one year, and therefore, does not meet the definition of “economically significant” under Executive Order 12866.

The provisions in this rule are not anticipated to have any impacts on SNAP participation or benefit issuance (transfers) and most are not expected to have measurable impacts on State Agencies or the Federal Government. For example, the cost estimate for the burden associated with the new reporting provisions do not exceed a total of \$110 combined for all State agencies per year. The interim final provisions implement statutory changes included in the 2018 Farm Bill; most of these statutory changes reflect policies and practices that are already in place and thus are not a substantive change from current practice. For example, requiring access to State computer systems for QC purposes is existing policy that has been in place since the current QC system was implemented. While this interim final regulation would clarify that FNS must have **remote** access to State computer systems, this requirement is expected to have minimal impact on State administrative expenses. Currently 21 States already provide remote access to their systems. In 17 of these States there was no cost associated with allowing FNS access (other than Federal staff time to resolve firewall issues). In the remaining 4

States there was a small cost for enabling remote access (\$200 for licensing in one State and \$3000 for a dedicated laptop used to access all 3 of the other States, or an average of \$800 per State). At \$800 per State, the remote access requirement is expected to result in one-time costs of about \$25,600 for the remaining 32 States.

Similarly, existing policy requires a State to notify FNS of its intent to enter into a contract for the purposes of training State QC Reviewers (SQCRs), to provide a copy of its contract and all deliverables to FNS, and any contractor activities or deliverables not complying with Federal regulations and policy are not eligible for Federal reimbursement. Current policy also requires that the State document any discussions about individually sampled cases within the QC record for subsequent review and auditing purposes.

In addition to codifying the existing requirement to document discussion about individually sampled cases, this rule places additional requirements if the State discusses individual sampled cases with a contractor. If the discussion occurs orally, FNS must be given notice 24 hours in advance of the discussion and must be allowed to participate in the discussion. If the discussion occurs in writing, the State must ensure that FNS is copied on all written correspondence discussing individual sampled cases. FNS estimates this new notification requirement will affect 5 State agency respondents once per year.

*Costs:*

The Department anticipates minimal costs associated with this rule. As noted above, the rule provisions primarily implement activities that are current policies and practice.

FNS does anticipate a small increase in reporting burden for State agencies associated with the requirement that States notify FNS in advance or copy FNS on written correspondence when the State discusses individual sampled cases with a contractor. As described in the Paperwork Reduction Act section of this rule, FNS anticipates

that 5 States will be required to submit such notification once per year, for an additional 0.4 hours in reporting burden annually. Because FNS has already addressed situations where States used contractors improperly, we expect States to discuss individual cases with contractors only on rare occasions.

No additional Federal costs are anticipated; any staff time devoted to these activities will be part of the normal duties of Federal staff.

*Benefits:*

The Department anticipates that these interim final provisions will improve Federal oversight of State QC systems and improve the integrity of State-reported QC data used to determine SNAP error rates.

*Transfers:*

The Department does not anticipate any changes in transfers associated with this rule.

*Alternatives:*

The 2018 Farm Bill required that the Department implement specific changes to current QC operations and eliminated performance bonus payments to States.

Therefore, no alternatives were considered.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Rules that are exempt from notice and comment are also exempt from the Regulatory Flexibility Act requirements, including conducting a regulatory flexibility analysis, when among other things the

agency for good cause finds that notice and public procedure are impracticable, unnecessary, and contrary to the public interest.

### **Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this rule as ‘not major’, as defined by 5 U.S.C. § 804(2).

### **Executive Order 12372**

SNAP is listed in the Catalog of Federal Domestic Assistance under Number 10.551. For the reasons set forth in the Final Rule codified in 7 CFR part 3015, subpart V and the related Notice (48 FR 29115), this Program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

### **Federalism Summary Impact Statement**

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13121.

The Department has considered the impact of this interim rule on State and local governments and has determined that this rule does not have federalism implications. Therefore, under Section 6(b) of the Executive Order, a federalism summary is not required.

### **Executive Order 12988, Civil Justice Reform**

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local



laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

### **Civil Rights Impact Analysis**

FNS has reviewed the interim final rule, in accordance with the Department Regulation 4300-004, Civil Rights Impact Analysis, to identify and address any major civil rights impacts the interim final rule might have on minorities, women, and persons with disabilities. A comprehensive Civil Rights Impact Analysis (CRIA) was conducted on the interim final rule, including an analysis of data and provisions contained in the interim final rule. The CRIA outlines outreach and mitigation strategies to lessen any possible civil rights impacts. The CRIA concludes the interim final rule will impact State agencies by including cases processed by SSA in the error rate determination; however, this will not change the rate at which these households are selected for review. The Department finds that the implementation of mitigation strategies and monitoring by the FNS Civil Rights Division and FNS SNAP may lessen any impacts. SNAP has procedures in place to provide special accommodations for the QC review should elderly persons and individuals with disabilities request accommodation. These accommodations are described at 7 CFR 275.12(c)(1), which provides that if there is a hardship to the household in attending the QC interview, the reviewer must interview the household's authorized representative if they have one or go to the household's home. Additionally, FNS SNAP will continue to work with State agencies to ensure they are aware of their responsibility to provide special accommodation for the elderly and disabled persons during QC reviews. If necessary, the FNS Civil Rights Division will propose further

mitigation and outreach strategies to alleviate impacts that may result from the implementation of the interim final rule.

### **Executive Order 13175**

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments, or proposed legislation. Additionally, other policy statements or actions that have substantial direct effects on one or more Indian Tribes, the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes also require consultation. This regulation discloses there are no tribal implications associated with this rule. FNS attended a tribal consultation meeting on May 1, 2019, in Washington, D.C. where the changes to this rule were explained. No questions or concerns were brought to FNS's attention about this rule by any tribal leaders at the meeting. If a tribe requests consultation in the future, FNS will work with the Office of Tribal Relations to ensure meaningful consultation is provided.

### **Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320), requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current, valid OMB control number.

In accordance with the Paperwork Reduction Act of 1995, this interim final rule contains information collections that are subject to review and approval by the Office of Management and Budget; therefore, FNS is submitting for public comment the changes in the information collection burden that would result from adoption of the proposals in the rule. The agency is seeking a three-year renewal date for both OMB control numbers.

Once OMB approves these burden requirements associated with OMB Control Numbers: 0584-0074 and 0584-0303, the agency plans to publish separate notices in the Federal Register announcing OMB's approval.

We are revising two existing burden inventories for this rulemaking. The current burden inventories affected are Worksheet for the Supplemental Nutrition Assistance Program Quality Control Reviews (FNS-380) OMB Control Number: 0584-0074, expiration date 04/30/2023 and Supplemental Nutrition Assistance Program 275 QC Regulations OMB Control Number: 0584-0303, expiration date 1/31/2024 respectively. These changes are contingent upon OMB approval under the Paperwork Reduction Act of 1995 and as such are including two 60 day notices for comment on the affected collections.

Comments on both the information collections in this interim final rule must be received by [insert 60 days from date of publication in the Federal Register].

Send comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for FNS, Washington, DC 20503, Fax 202-395-7285, or email to *oira\_submission@omb.eop.gov*. Please also send a copy of your comments to any of the following: via mail to Stephanie Proska, Branch Chief, Quality Control Branch, Program Accountability and Administration Division, 1320 Braddock Place, 5<sup>th</sup> Floor; Alexandria, Virginia 22314; via fax to the attention of Stephanie Proska at 703-305-0928; or via email to *SNAPHQ-WEB@fns.usda.gov*. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record. For further information, or for copies of the information collection requirements, please contact Stephanie Proska at the address indicated above or email *SNAPHQ-WEB@fns.usda.gov*.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the Agency's functions, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the proposed information collection burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to these requests for comment will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**Title:** Worksheet for the Supplemental Nutrition Assistance Program's Quality Control Reviews.

**Form Number:** FNS 380.

**OMB Control Number:** 0584-0074.

**Expiration Date:** April 30, 2023.

**Type of Request:** Revision of a currently approved collection due to rulemaking.

**Abstract:** Section 16 of the Food and Nutrition Act of 2008 provides the legislative basis for the operation of the Quality Control (QC) system. Part 275, Subpart C, of SNAP regulations implements the legislative mandates found in Section 16. Regulations at 7 CFR 275.1, 275.14(d) and 275.21(a) and (b)(1) provide the regulatory basis for the QC reporting requirements.

Section 11(a) of the Food and Nutrition Act of 2008 provides the legislative basis for the recordkeeping requirements. SNAP regulations, at 7 CFR 272.1(f), specify that program records must be retained for three years from the month of origin. Regulations at 7 CFR 275.4 specifically address record retention requirements for form FNS-380.

Form FNS-380, is a SNAP worksheet used to determine eligibility and benefits for households selected for review in the QC sample of active SNAP cases. This form provides a systematic means of aiding the State's Quality Control Reviewer in analyzing the case record, planning and doing field investigation and gathering, comparing, analyzing and evaluating data.

Due to this interim-final rulemaking, the FNS 380 form must include a new State agency respondent burden for a new requirement at 7 CFR 275.2(c)(1)(v). The Department will require that if the State discusses individual sampled cases with a contractor, the State must document, within the case file, the contents of the discussion and any action taken by the State as a result of the discussion. If the discussion occurs orally, FNS must be given notice 24 hours in advance of the discussion and must be allowed to participate in the discussion. If the discussion occurs in writing, the State must ensure that FNS is copied on all written correspondence discussing individual sampled cases. FNS estimates this new notification requirement will affect 5 State agency respondents at least one time per year for a total burden of 5 minutes (0.0835 hour) per response, estimating an additional 25 minutes (0.40 hour) to the current information collection. No additional recordkeeping requirements are necessary.

We estimate the total reporting burden for the collection of information to support SNAP QC as 405,995.67 hours. This includes approximately 8.48 hours for State Agencies to analyze each household case record including planning and carrying out the field investigation; gathering, comparing, analyzing and evaluating the review data and forwarding selected cases to the Food and Nutrition Service for Federal validation, totaling approximately 382,173.44 hours for the entire caseload. We also include an average interview burden of 30 minutes (0.5 hours) for each household, creating a

reporting burden for them for 22,748.50 hours. The total reporting burden for the affected public is 404,921.94 hours. Additionally, we estimate the recordkeeping burden per record for the State Agencies to be 1.4 minutes (0.0236 hours), thereby making the recordkeeping burden associated with this information collection to be 1,073.73 hours. There is no recordkeeping requirement for households. The total estimated reporting and recordkeeping burden for this collection is 405,995.67 hours.

***Reporting Burden Annual Estimates for OMB control Number 0584-0074***

*Affected Public:* State, Local and Tribal Government and Individuals and Households

*Estimated Number of Respondents:* 45,550 (53 State Agencies and 45,497

Individuals/households)

*Estimated Number of Responses per Respondent:* 4,293.24 (4,292.24 for State agencies and 1 per individual/household)

*Estimated Total Annual Responses:* 272,985.95 (227,488.95 for State agencies and 45,497 from individuals and households)

*Estimated Time per Response:* 8.98 hours (8.48 hours for State agencies and .5 hour for individuals and households)

*Estimated Total Burden Response Hours:* 404,921.94 (382,173.44 from State agencies and 22,748.50 from individuals/households)

***Recordkeeping Burden Annual Estimates for OMB control Number 0584-0074***

*Number of Record Keepers:* 53.

*Number of Records per Record Keeper:* 858.43 Records.

*Estimated Number of Records/Response to Keep:* 45,497 Records.

*Recordkeeping time per Response:* .0236 hours.

*Total Estimated Recordkeeping Burden Hours:* 1,073.73 hours.

*Estimated Total Annual Reporting and Recordkeeping Burden on Respondents: 405,995*

hours.

This information collection request associated with OMB Control Number: 0584-0074

reflects a difference of + 0.40 hour due to program changes for rulemaking.

Reporting Burden for State Agencies FNS 380, OMB 0584-0074										
Reg. Section	Affected Public	Description of Activity	Estimated Number of Respondents	Estimated responses per respondent	Revised Total Annual responses	Revised Number of Burden Hours Per Response	Revised Estimated Total Burden Hours	Previous Submission Total Hours	Difference Due to Program Changes	Difference Due to Adjustments
275.2(c)(1)(v)	SA	Notification to discuss individual cases	5	1	5	0.08	0.4	n/a	0.40	n/a
275.12(b)	SA	Household Case Record Review	53	858.43	45,496.79	3	136,490.37	136,490.37	0.00	0.00
275.12(c)	SA	Field investigation	53	858.43	45,496.79	3.5	159,238.77	159,238.77	0.00	0.00
275.12(c)(1)	SA	Personal interviews	53	858.43	45,496.79	0.5	22,748.40	22,748.40	0.00	0.00
275.12(b)	SA	Variance identification	53	858.43	45,496.79	0.9	40,947.11	40,947.11	0.00	0.00
275.12(b)	SA	Error analysis	53	858.43	45,496.79	0.5	22,748.40	22,748.40	0.00	0.00
<b>State Agencies (SA) Reporting Burden - Subtotals</b>			<b>53</b>	<b>4,292.24</b>	<b>227,488.95</b>	<b>8.48</b>	<b>382,173.44</b>	<b>382,173.04</b>	<b>0.40</b>	<b>0.00</b>
Reporting Burden for Individuals/Households FNS 380, OMB 0584-0074										
275.12(c)(1)	Individual/Households	Personal interviews	45,497	1	45,497	0.5	22,748.50	22,748.50	0.00	0.00
<b>Individuals/Households (I/H) Reporting Burden - Subtotals</b>			<b>45,497</b>	<b>1</b>	<b>45,497</b>	<b>0.5</b>	<b>22,748.50</b>	<b>22,748.50</b>	<b>0.00</b>	<b>0.00</b>
<b>Grand Totals Reporting Burden</b>			<b>45,550.00</b>	<b>4,293.24</b>	<b>272,985.95</b>	<b>8.98</b>	<b>404,921.94</b>	<b>404,921.54</b>	<b>0.40</b>	<b>0.00</b>

**Recordkeeping Burden for State Agencies FNS 380, OMB 0584-0074**

Reg. Section	Affected Public	Description of Activity	Estimated Number of Respondents	Estimated responses per respondent	Revised Total Annual responses	Revised Number of Burden Hours Per Response	Revised Estimated Total Burden Hours	Previous Submission Total Hours	Difference Due to Program Changes	Difference Due to Adjustments
275.4	State Agencies	Record Retention	53	858.43	45,497	0.0236	1,073.73	1,073.73	0.00	0.00
<b>Overall Grand Total Reporting SA &amp; I/H and Recordkeeping for SA</b>			<b>45,550.00</b>	<b>6.99</b>	<b>318,482.95</b>	<b>9.00</b>	<b>405,995.67</b>	405,995.27	0.40	0.00

\*\*\*\*\*

**Action** 60 day Notice.

**Summary:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this information collection in this interim final rule. This collection is a revision of a currently approved information collection request.

**Dates:** Written comments must be received on or before [insert 60 days from publication in federal register]

**Send Comments to:** The Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for FNS, Washington, DC 20503, Fax 202–395–7285, or email to [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov). Please also send a copy of your comments to one of the following: via mail to Stephanie Proska, Branch Chief, Quality Control Branch, Program Accountability and Administration Division, 1320 Braddock Place, 5<sup>th</sup> Floor; Alexandria, Virginia 22314; via fax to the attention of Stephanie Proska at 703-305-0928; or via email to [SNAPHQ-WEB@fns.usda.gov](mailto:SNAPHQ-WEB@fns.usda.gov). Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record. For further information, or for copies of



the information collection requirements, please contact Stephanie Proska at the address indicated above or email [SNAPHQ-WEB@fns.usda.gov](mailto:SNAPHQ-WEB@fns.usda.gov).

### **Supplementary Information**

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Supplemental Nutrition Assistance Program (SNAP)

Form Number: FNS 74 A and FNS 74B

OMB Number: 0584-0303

Expiration Date: January 31, 2024

Type of Request: Revision of a currently approved collection.

Abstract: Section 16 of the Food and Nutrition Act of 2008, as amended, provides the legislative basis for the operation of the SNAP QC system. Part 275, Subpart C, of SNAP regulations implements the legislative mandates found in Section 16. Section 11(d) of the Food and Nutrition Act of 2008, as amended (the Act), requires each State agency administering SNAP to submit a plan of operation specifying the manner in which the program is conducted and Section 11(e) of the Act authorizes the inclusion of other provisions as required by regulation. In Part 275, due to this interim final rulemaking there will now be five components of the Quality Control (QC) system that

are covered in this required information collection. They are: (1) The sampling plan; (2) Third party contractors (new requirement); (3) the arbitration process; (4) the good cause process; and (5) QC-related New Investments.

Each State agency is required to develop a sampling plan that demonstrates the integrity of its case selection process. The QC system is designed to measure each State agency's payment error rate and case and procedural error rate based on a statistically valid sample of SNAP cases. A State agency's payment error rate represents the proportion of cases that were reported through a QC review as being ineligible, as well as the proportion of SNAP benefits that were either overissued or under-issued to SNAP households. A State agency's case and procedural error rate represents the correctness of a proportion of cases that were measured in a QC review in which the State agency took an action to deny an application or suspend or terminate the benefits of a participating household. It also includes the accuracy of measuring a State's compliance with Federal procedural requirements for those actions, which include the timeliness of the action and adherence to notice requirements.

Due to this interim-final rulemaking, the QC system will require States to notify FNS about its intent to hire third party contractors for QC purposes, send FNS the signed contracts that are awarded, send FNS information on the third party contractor's completed deliverables to FNS, and notify FNS of training sessions that will be hosted by 3<sup>rd</sup> party contractors in the event the State agency intends to request federal reimbursement for administrative expenses associated with the third party contract.

The QC system also contains procedures for resolving differences in review findings between State Agencies and FNS. This is referred to as the arbitration process. As part of the arbitration process, State agencies must defend, in writing, their disagreement with the Federal re-reviewer's finding or disposition of a case and submit their defense to the arbitrator for a decision to be made on their disagreement. Due to this interim-final

rulemaking, the regulatory reference is being updated to the revised designation of 7 CFR 275.2(d)(4).

The QC system also contains procedures that provide relief for State agencies from all or a part of a QC liability when a State agency can demonstrate that a part or all of an excessive error rate was due to an unusual event that had an uncontrollable impact on the State agency's payment error rate. This is referred to as the good cause process.

Finally, when a State agency is unable to demonstrate that a part or all of an excessive error rate was due to an unusual event that had an uncontrollable impact on the State agency's payment error rate and chooses to settle with FNS by investing fifty percent of their total QC liability using new State agency funds into the SNAP program to target the root causes of their errors, the State agency must submit a new investment plan and, after approval, new investment progress reports every six months until the plan is complete.

Note: The ability for a State agency to settle its error rate related liability is described in Section 16(c) of the Food and Nutrition Act of 2008, as amended.

Burden for the QC system includes reporting and recordkeeping burden for State agencies to create a QC sampling plan, notify and submit the required information regarding the use of third party contractors to FNS, and participate in the arbitration, good cause, new investment plan and new investment progress report processes.

The requested extension of unchanged estimates and revisions for the reporting burdens due to new requirements for each component are as follows: (1) The estimated annual reporting burden associated with the QC sampling plan is 1,060 hours, no change from the current collection; (2) the four new annual collection estimates for reporting burden associated with the notifications and submissions activities of third party contractors combined estimates is 3.99 hours; (3) the estimated annual reporting burden associated with arbitration is 1,224 hours, no change from the current collection; (4) The estimated annual reporting burden associated with the good cause process is 160 hours, no change

from the current collection; (5) The estimated annual reporting burden associated with the new investment plan is 288 hours, no change from the current collection-no 74A form changes either; and finally (6) The estimated annual reporting burden associated with the new investment progress report is 90 hours, no change from the current collection- no 74B form changes, either.

We are requesting 2,825.99 estimate annual reporting burden hours. This total includes the current estimate for this requested total estimated reporting burden for the QC system is 2,822.00, plus an increase of 3.99 hours due to program changes for this rulemaking.

The requested annual recordkeeping burden associated with the QC sampling plan remains at 1.25 hours per year. No recordkeeping is required for the third party contractor provisions, since states have their own rules for recordkeeping State contracts. The annual recordkeeping burden associated with arbitration is 0.8496 and the good cause process burden is 0.0236 hour, both remain the same as the current collection. The estimated recordkeeping burden for the QC-related new investment plans remains at 0.0214 hours and the estimated recordkeeping burden for the QC-related new investment progress reports remains at 0.4248 hours.

The burden for recordkeeping has remained at 2.7612 hours. As a result, the overall annual reporting and recordkeeping burden for the QC system, as proposed by this notice, increased from 2135.76 hours to 2,828.75 hours due to the interim-final rule provisions adding reporting requirements related to State agency use of third party contractors.

*Affected Public:* 53 State, Local and Tribal Government

***Reporting Burden Annual Estimates for OMB control Number 0584-0303***

*Affected Public:* State, Local and Tribal Government.

*Estimated Number of Respondents:* 53 State Agencies.

*Estimated Number of Responses per Respondent:* 2.4339

*Estimated Total Annual Responses:* 129

*Estimated Time per Response: 21.906899 hours.*

*Estimated Total Burden Hours: 2,825.99 hours*

***Recordkeeping Burden Annual Estimates for OMB control Number 0584-0303***

*Number of Record Keepers: 53.*

*Number of Records per Record Keeper: 117 Records.*

*Estimated Number of Records/Response to Keep: 2.2075 Records.*

*Recordkeeping time per Response: 0.118 hours.*

*Total Estimated Recordkeeping Burden Hours: 2.7612 hours.*

*Estimated Total Annual Reporting and Recordkeeping Burden on Respondents: 2,828.75 hours.*

This information collection request associated with OMB Control Number: 0584-0303 reflects an increase of 3.99 hours due to program changes for rulemaking.

275 Regs Reporting OMB 0584-0303										
Reg. Section	Affected Public	Description of Activity	Estimated Number of Respondents	Estimated responses per respondent	REVISED Total Annual responses	REVISED Number of Burden Hours Per Response	REVISED Estimated Total Burden Hours	Previous Submission Total Hours	Difference Due to Program Changes	Difference Due to Adjustments
275.11(a)(1)-(a)(2)	State Agencies	Sampling Plan	53	1	53	20	1060	1060	0	0
275.2(c)(1)(i)	State Agencies	Use of 3rd Party Contractors-Notification of intent to hire	3	1	3	0.25	0.75	0	0.75	0
275.2(c)(1)(ii)	State Agencies	Use of 3rd Party Contractors-Submission of signed contract and tasks	3	1	3	0.5	1.5	0	1.5	0
275.2(c)(1)(iii)	State Agencies	Use of 3rd Party Contractors-Submission of completed deliverables	3	1	3	0.5	1.5	0	1.5	0
275.2(c)(1)(iv)	State Agencies	Use of 3rd Party Contractors-Notification of training sessions	3	1	3	0.08	0.24	0	0.24	0
275.2(d)(4)	State Agencies	Arbitration Process	12	3	36	34	1224	1224	0	0

273.23(f)	State Agencies	Good Cause Process	1	1	1	160	160	160	0	0
275.23(h)	State Agencies	New Investment Plan Template Form FNS 74 A	9	1	9	32	288	288	0	0
275.23(h)(4)	State Agencies	New Investment Progress Report Template Form FNS 74 B	9	2	18	5	90	90	0	0
<b>SUB-TOTAL REPORTING BURDEN</b>			<b>53</b>	<b>2.433962264</b>	<b>129</b>	<b>21.90689922</b>	<b>2825.99</b>	<b>2822</b>	<b>3.99</b>	<b>0</b>

275 Recordkeeping OMB 0584-0303										
Reg. Section	Affected Public	Description of Activity	Estimated Number of Respondents	Estimated responses per respondent	REVISED Total Annual responses	REVISED Number of Burden Hours Per Response	REVISED Estimated Total Burden Hours	Previous Submission Total Hours	Difference Due to Program Changes	Difference Due to Adjustments
275.4	State Agencies	Sampling Plan Record Retention	53	1	53	0.0236	1.2508	1.2508	0	0
275.4	State Agencies	Arbitration Process Record Retention	12	3	36	0.0236	0.8496	0.8496	0	0
275.4	State Agencies	Good Cause Process Record Retention	1	1	1	0.0236	0.0236	0.0236	0	0
275.4	State Agencies	New Investment Plan Template Form FNS 74 A Record Retention	9	1	9	0.0236	0.2124	0.2124	0	0
275.4	State Agencies	New Investment Progress Report Template Form FNS 74 B Record Retention	9	2	18	0.0236	0.4248	0.4248	0	0
<b>Sub Total RECORDKEEPING</b>			<b>53</b>	<b>2.20754717</b>	<b>117</b>	<b>0.118</b>	<b>2.7612</b>	<b>2.7612</b>	<b>0</b>	<b>0</b>

Reg. Section	Affected Public	Description of Activity	Estimated Number of Respondents	Number of Reports Annually By State	Number of Total Annual Records	Estimated Time Per Record	Estimated Total Record Keeping Hours	Previous Submission Total Hours	Difference Due to Program Changes	Difference Due to Adjustments
<b>Grand Total REPORTING &amp; RECORDKEEPING</b>			<b>53</b>	<b>4.41509434</b>	<b>234</b>	<b>12.08868034</b>	<b>2828.7512</b>	<b>2824.7612</b>	<b>3.99</b>	<b>0</b>

## E-Government Act Compliance

The Department is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

## **List of Subjects**

### **7 CFR Part 275**

Grant programs-social programs, Reporting and recordkeeping requirements

Accordingly, 7 CFR part 275 is amended as follows:

#### **PART 275- PERFORMANCE REPORTING SYSTEM**

1. The authority citation for part 275 continues to read as follows:

**Authority:** 7 U.S.C. 2011-2036.

2. Amend § 275.2 by adding paragraphs (c) and (d) to read as follows.

#### **§ 275.2 State agency responsibilities.**

\* \* \* \* \*

(c) *Use of third party contractors.* Any State agency procuring services of a contractor for quality control related services, including any project or training that involves the interpretation of SNAP regulations, policies, or handbooks for quality control or payment accuracy purpose, must ensure that all activities and deliverables performed by the contractor within the scope of the contract adhere to Federal law, regulations, and policies. Activities performed or deliverables provided by a contractor that are not in accordance with Federal law, regulations, or policies are unallowable SNAP administrative costs and are not eligible for Federal reimbursement.

(1) For expenses related to the hiring of a contractor for any quality control related work to qualify for SNAP administrative cost reimbursement under § 277.4(b), FNS requires the following:

- (i) The State must notify FNS in writing of its intent to hire a contractor at least 30 days prior to entering into the contract to do so. The notification must include a copy of the selected contractor's complete proposal, which must receive FNS approval before the State may proceed with the procuring the contract.
- (ii) Once the contract is procured, the State must submit to FNS a copy of the signed contract and documentation that outlines all tasks and deliverables to be performed or produced by the contractor.
- (iii) The State must submit to FNS a copy of all deliverables, including any training materials, provided by the contractor.
- (iv) The State must notify FNS of the date, time, and location of any training sessions led by the contractor at least 10 days in advance of the training. FNS shall be allowed to attend any such training session with or without providing prior notice to the State agency or the contractor.
- (v) If the State discusses individual sampled cases with the contractor, the State must document, within the case file, the contents of the discussion and any action taken by the State as a result of the discussion. If the discussion occurs orally, FNS shall be given notice 24 hours in advance of the discussion and shall be allowed to participate in the discussion. If the discussion occurs in writing, the State must ensure that FNS is copied on all written correspondence discussing individual sampled cases.
- (2) Copies of documentation and notices required in paragraph (c)(1) of this section must be provided to the appropriate FNS Regional SNAP Director.
- (3) In accordance with the non-procurement debarment procedures under 2 CFR part 417, or successor regulations, FNS shall debar any person that, in carrying out the quality control system, knowingly submits or causes to be submitted false information to FNS.
- (4) Compliance date: Paragraph (c)(1) of this section contains information-collection requirements. Compliance with paragraph (c)(1) will not be required until this paragraph



(c)(4) is removed or contains a compliance date, after review of such requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act.

(d) *FNS Access to State Systems*. Subject to data and security protocols agreed to by FNS and a State agency administering SNAP, each State agency shall ensure that FNS has complete access, including remote access for QC purposes, to both the records that are used in the administration of SNAP, including but not limited to the records contained within certification and EBT systems, and the information systems in which such records are contained.

3. In § 275.3:

- a. Redesignate paragraphs (c) and (d) as paragraphs (d) and (e); and
- b. Add a new paragraph (c)

The addition reads as follows:

**§ 275.3 Federal Monitoring.**

\* \* \* \* \*

(c) *Reviews of State Agency's Quality Control System*. FNS will conduct a management evaluation (ME) of at least two State Quality Control systems annually, to the maximum extent practicable. The ME will include, but not be limited to, a determination of whether the State agency is complying with FNS regulations; an assessment of the State agency's methods and procedures for conducting and managing the Quality Control system; and an assessment of the data collected by the State agency and submitted to the FNS Regional Office for conducting reviews.

\*\*\*\*\*

4. Amend § 275.4 by revising paragraph (c) to read as follows:

**§ 275.4 Record retention.**

\* \* \* \* \*

(c) QC review records consist of Forms FNS-380, Worksheet for Supplemental Nutrition Assistance Program, FNS-380-1, Quality Control Review Schedule, FNS-245, Negative Quality Control Review Schedule; other materials supporting the review decision, including all correspondence with the household and all case notes, digital or otherwise, taken or used by the eligibility worker that are applicable to the review period; sample lists; sampling frames; tabulation sheets; and reports of the results of all quality control reviews during each review period.

5. In § 275.11 amend paragraph (g) by:

- a. Revising the paragraph heading;
- b. In the first sentence, removing the phrase, “, and households participating based upon an application processed by Social Security Administration personnel”;
- c. In the third sentence, removing the term “§ 275.21(e)” and adding, in its place, the term “§ 275.21(d)”;
- d. In the third sentence removing the term “§ 275.23(b)(2)” and adding, in its place, the term “§ 275.23(b)(1)”;
- e. Removing the sixth and seventh sentences.

The revision reads as follows:

§ 275.11 Sampling.

\*\*\*\*\*

(g) *Demonstration projects.* \*\*\*

6. In § 275.12 amend paragraph (h) by:

- a. Revising the paragraph heading; and
- b. Removing the third and fourth sentences.

The revision reads as follows:

**§ 275.12 Review of active cases.**

\*\*\*\*\*

(h) *Demonstration projects.* \*\*\*

7. In § 275.13 amend paragraph (f) by:

- a. Revising the paragraph heading; and
- b. Removing the last sentence.

The revision reads as follows:

**§ 275.13 Review of negative cases.**

\*\*\*\*\*

(f) *Demonstration projects.* \*\*\*

8. In § 275.21:

- a. Revise paragraph (b); and
- b. In paragraph (d):
  - i. Revise the paragraph heading; and
  - ii. Removing the phrase “/SSA processed cases” from the first sentence.

The revisions read as follows:

**§ 275.21 Quality control review reports.**

\* \* \* \* \*

(b) *Individual cases.* The State agency shall report the review findings on each case selected for review during the sample month. For active cases, the State agency shall thoroughly document the Quality Control Review Schedule, Form FNS-380, to ensure any subsequent case reviewers fully understand household circumstances pertaining to the QC review as well as the reasons for the individual case finding and disposition. The State agency shall also code the findings on the Form FNS-380-1. For negative cases, the State agency shall submit a summary report, coded and documented on the Negative Quality Control Review Schedule, Form FNS-245, in enough detail to ensure subsequent case reviewers fully understand the reasons for the individual finding and disposition.

The review findings shall be reported as follows:

\* \* \* \* \*

(d) *Demonstration projects.* \*\*\*

9. In § 275.23 amend paragraph (b)(1) by:

a. Revising the paragraph heading; and

b. Removing the second and third sentences of the paragraph.

The revision reads as follows:

**§ 275.23 Determination of State agency program performance.**

\* \* \* \* \*

(b) \*\*\*

(1) *Demonstration projects.* \*\*\*

\*\*\*\*\*

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Stacy Dean

Deputy Under Secretary

Food, Nutrition and Consumer Services

[FR Doc. 2021-17254 Filed: 8/12/2021 8:45 am; Publication Date: 8/13/2021]